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TAGS: [KAWC](#) [KJUS](#) [PREL](#) [HR](#)

SUBJECT: DEL PONTE SAYS CROATIA FULLY COOPERATING WITH ICTY

Classified By: Ambassador Ralph Frank, Reasons 1.5 (b) & (d)

SUMMARY

1. (C) ICTY Chief Prosecutor Carla del Ponte briefed the diplomatic community on June 4 on her day and a half visit to Zagreb. Del Ponte said that although Croatia's cooperation with the tribunal was the best of any country, she had warned the GoC leadership that she could change her assessment at any time. Del Ponte supports transferring ICTY indictments to Croatia for prosecution, beginning with the soon-to-be-joined Norac and Ademi cases. The ICTY is looking to the OSCE to monitor the performance of Croatian courts. However, ICTY Diplomatic liaison Jean-Daniel Ruch separately warned Ambassador Frank that past, simplistic OSCE assessments of Croatia's local prosecution capabilities could bias ICTY President Theodor Meron against approving the transfer of cases. The assembled ambassadors were wary of OSCE mission creep, suggesting that the ICTY and OSCE look to developing local capacities to monitor war crimes cases. END SUMMARY.

CROATIA COOPERATING FULLY

2. (C) On June 4, ICTY Chief Prosecutor Carla del Ponte briefed the diplomatic community on the results of her day and a half visit to Zagreb. Del Ponte reiterated her public statements that Croatia is fully cooperating with the ICTY, including the continuing search for fugitive Ante Gotovina. The GoC has engaged in direct communication with the ICTY and has responded promptly to requests for assistance. Del Ponte said she had made it clear to both President Mesic and Prime Minister Sanader that she would withdraw her positive opinion if she felt the GoC was slacking off on cooperation, particularly regarding Gotovina.

3. (C) Del Ponte said that she had complete confidence in Chief State Prosecutor Mladen Bajic, who is a "brilliant" prosecutor, in leading the search for Gotovina. Del Ponte expects the GoC to find Gotovina and to work actively with other governments to find him if he is not in Croatia. She said within the next few months she expected the GoC to either confirm Gotovina was in Croatia or in a specific other country. Prior to del Ponte's briefing, ICTY Diplomatic liaison Jean-Daniel Ruch, told Ambassador Frank separately that President Mesic and Prime Minister Sanader has assured del Ponte in their meetings that there was absolutely no interest among Croatian authorities in protecting Gotovina.

READY TO TRANSFER CASES

4. (C) Chief Prosecutor del Ponte told the diplomatic community the ICTY was getting ready to transfer the Norac and Ademi cases, once they had been joined into a single case. She welcomed the work of Justice Minister Vesna Skare-Ozbolt to prepare Croatian judges and prosecutors for this transfer. The issue for the Tribunal was whether the new special war crimes courts were ready to process transferred cases. Most of the assembled ambassadors, including those from Germany, Canada, The Netherlands, and Ireland, said that despite some concerns, they felt that Croatia was ready to take on a test case. The only way to know for sure was to send a case for prosecution.

5. (C) In their separate meeting, ICTY's Ruch told Ambassador Frank that the transfer of cases could heavily depend on the OSCE. Ruch complained that the OSCE was the only organization with a credible capability to assess the performance of Croatian judiciary. However, the OSCE's reports for 2002 and 2003 (draft) appeared to be sterile number crunching exercises, which focused on the performance of small courts processing locally generated indictments and did not reflect the capabilities of the four courts designated to take on ICTY cases. He feared that ICTY President Theodor Meron would rely only on these reports and assess that the Croatian judiciary was not ready to take on ICTY cases. Ruch asked the Ambassador to weigh in with the

OSCE Mission to provide a richer, more dynamic assessment of the evolving capacities of the four war crimes courts that would facilitate the transfer of the first test case to Croatia.

ROLE OF THE OSCE

16. (C) Del Ponte welcomed the role of the OSCE in monitoring local war crimes cases. She noted that the ICTY does not have the resources to monitor transferred cases, and would look to the OSCE to assist. German Ambassador Gebhardt Weiss cautioned against expanding the OSCE's role in Croatia and

urged that Croatian NGOs be helped to grow into this role. Irish Ambassador Barrie Robinson, speaking on behalf of the EU, said with 25 member countries, the EU would have an enhanced capability to perform a monitoring function.

17. (C) OSCE Head of Mission Peter Semneby said that the OSCE was working with the Ministry of Justice to identify issues and potential solutions regarding fairness issues in local prosecutions. That said, he noted that he had told Judge Meron that for individual cases, there was no reason not to believe that the Croatian judiciary can handle prosecutions.

COMMENT

18. (C) The ICTY is probably right that there is no realistic short-term alternative to the OSCE playing a key monitoring role. However, if our objective in transferring ICTY cases back to Croatia is to help Croatia come to terms with its own checkered war legacy, Croatian civil society will have to play a larger role in monitoring Croatian government institutions. Longer term, we would agree with the German view that the OSCE could play a useful role in developing the capacity of Croatian NGOs to take on the monitoring function.
FRANK

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